

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

VISHAL BHAMMER,

Plaintiff,

v.

LOOMIS SAYLES & COMPANY, L.P.,

Defendant.

Civil Action No: 1:15-cv-14213-FDS

**ASSENTED TO MOTION TO PERMIT AMENDMENT OF COMPLAINT  
FOR LIMITED PURPOSE OF CLARIFYING JURISDICTION**

Plaintiff Vishal Bhammer (“Plaintiff”) moves for an order permitting Plaintiff to file an amended complaint for the limited purpose of clarifying jurisdiction. In support of this request, the Plaintiff submits the attached proposed Amended Complaint (Exhibit A), Stipulation (Exhibit B) and further state as follows:

1. Plaintiff filed this action on December 23, 2015 to recover damages and other relief for tortious acts that Plaintiff alleges were performed by Defendant Loomis Sayles & Company, L.P. (“Loomis LP”).
2. At the time of the tortious acts alleged by Plaintiff, Loomis Sayles & Company, Inc. (“Loomis Inc.”) was the General Partner of Loomis LP and, as such would be unconditionally liable for any damages or other relief to which Plaintiff may be entitled as a result of the tortious conduct alleged in the Complaint. See Fusco v. Rocky Mountain I Investments Ltd. Partnership, 42 Mass. App. Ct. 441, 447-48 (1997); see also Stipulation, attached as Exhibit B, ¶¶ 1-2.

3. Under applicable law, Plaintiff could have sought to recover such damages and other relief from either Loomis LP itself, Loomis Inc. or both. See Massachusetts Elec. Co. v. Hayeck, 1998 WL 1183960, \* 2 (Mass. Sup. Ct. Dec. 22, 1998) (“A plaintiff may sue a general partner and a limited partnership in one action or in separate actions as they are severally, not jointly liable.”) citing Fusco, 42 Mass. App. Ct. at 450 n. 21; see also Stipulation, ¶¶ 3-5. The Complaint, however, only names Loomis LP as a defendant.
4. During the May 24, 2016 hearing on Loomis LP’s motion to dismiss, the Court noted that, because Loomis LP is a limited partnership, additional information concerning its partners was needed to determine whether diversity jurisdiction exists in this matter.
5. Counsel for Loomis LP subsequently provided information to Plaintiff’s counsel regarding the citizenship of Loomis LP’s partners.<sup>1</sup>
6. Given the substantial time and money that the parties have invested in this action, and because this action could have originally been brought against Loomis Inc.—which is a citizen of Massachusetts—the parties believe that it would be most appropriate for Plaintiff to amend the Complaint for the limited purpose of removing Loomis LP as a party and making Loomis Inc. the defendant in this action, as reflected in the Amended Complaint attached as Exhibit A.
7. If the amendment is permitted, the parties respectfully request that the pending motion to dismiss be deemed to have been filed by Loomis Inc., and that the court proceed to rule on the motion without the need for further briefing or argument.

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<sup>1</sup> Specifically, Loomis LP has a partner (another LP) that has a partner (an LLC) that has a member (another LLC) that has a member that is a French business entity. The General Partner of Loomis LP is a Massachusetts corporation. It appears that the First Circuit has not addressed how a court should treat the citizenship of Loomis LP in this circumstance.

WHEREFORE, the Plaintiff respectfully requests that this motion be granted, that Plaintiff be permitted to file the Amended Complaint attached as Exhibit A, and that the pending motion to dismiss be deemed as having been filed by Loomis Inc.

Respectfully submitted,

/s/ Patrick J Hannon

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### **CERTIFICATE OF SERVICE**

I hereby certify that this document, filed through the ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants by regular mail on June 15, 2016.

/s/ Patrick J. Hannon

Patrick J. Hannon